

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 4351

By: Hill

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8                               COMMITTEE SUBSTITUTE

9           An Act relating to the Uniform Consumer Credit Code;  
10 defining terms; allowing surcharges in certain  
11 transactions; limiting surcharge amount; requiring  
12 certain disclosures; limiting application of  
13 surcharge in a single transaction; prohibiting  
14 surcharges in certain transactions; creating  
15 liability for violation; repealing 14A O.S. 2021,  
16 Section 2-417, which prohibits surcharges; amending  
17 14A O.S. 2021, Section 2-211, which relates to  
18 discounts; deleting surcharge prohibition; providing  
19 for codification; and providing an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1.           NEW LAW           A new section of law to be codified  
in the Oklahoma Statutes as Section 2-418 of Title 14A, unless there  
is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Debit card" means any instrument or device, whether known  
as a debit card or by any other name, issued with or without fee by

1 an issuer for the use of the cardholder in depositing, obtaining, or  
2 transferring funds from a consumer banking electronic facility;

3 2. "Charge card" includes cards on which unpaid balances are  
4 payable on demand;

5 3. "Surcharge" means any additional amount imposed at the time  
6 of the sales or lease transaction by the seller or lessor that  
7 increases the charge to the buyer or lessee for the privilege of  
8 using a credit or charge card.

9 B. In accordance with this section, a seller or lessor in any  
10 sales or lease transaction may impose a surcharge on a buyer or  
11 lessee who elects to use a credit card or charge card in lieu of  
12 payment by cash, check, or similar means.

13 C. A seller or lessor doing business in Oklahoma may impose a  
14 surcharge of an amount not to exceed two percent (2%) of the total  
15 cost to the buyer or lessee for the sales or lease transaction.  
16 Such seller or lessor that imposes a surcharge on credit cards or  
17 charge cards shall post signage at the seller's or lessor's premises  
18 in a manner that is visible to customers or, for a sales or lease  
19 transaction made online, display before an online customer's  
20 completion of the sales or lease transaction in a manner that is  
21 visible to the online customer, the following language:

22 "TO COVER THE COST OF PROCESSING A CREDIT OR CHARGE CARD  
23 TRANSACTION, AND PURSUANT TO SECTION 2-418 OF TITLE 14A OF THE  
24 OKLAHOMA STATUTES, A SELLER OR LESSOR MAY IMPOSE A PROCESSING

1 SURCHARGE IN AN AMOUNT NOT TO EXCEED TWO PERCENT (2%) OF THE TOTAL  
2 PAYMENT MADE FOR GOODS OR SERVICES PURCHASED OR LEASED BY USE OF A  
3 CREDIT OR CHARGE CARD. A SELLER OR LESSOR MAY NOT IMPOSE A  
4 PROCESSING SURCHARGE ON PAYMENTS MADE BY USE OF CASH, CHECK, OR  
5 DEBIT CARD OR REDEMPTION OF A GIFT CARD.";

6 The processor or service provider may provide the seller or  
7 lessor with the means to make the disclosure required by this  
8 subsection.

9 D. For any goods or services purchased or leased through  
10 payment by credit card or charge card, the seller, lessor,  
11 processor, or service provider shall provide the surcharge amount  
12 imposed as a separate line item on the customer's receipt.

13 E. A seller or lessor may impose only a single credit card or  
14 charge card surcharge per sales or lease transaction.

15 F. A seller or lessor shall not impose a surcharge if a  
16 customer elects to pay for goods or services by:

- 17 1. Using cash or check;
- 18 2. Using a debit card, whether or not a personal identification  
19 number is used;
- 20 3. Processing a payment as a debit payment; or
- 21 4. Redeeming a gift card.

22 G. A seller or lessor who violates this section violates the  
23 Uniform Consumer Credit Code and is subject to liability under the  
24 Code.

1       SECTION 2.       REPEALER       14A O.S. 2021, Section 2-417, is  
2 hereby repealed.

3       SECTION 3.       AMENDATORY       14A O.S. 2021, Section 2-211, is  
4 amended to read as follows:

5       Section 2-211. A. With respect to all sales transactions, a  
6 discount which a seller offers, allows or otherwise makes available  
7 for the purpose of inducing payment by cash, check or similar means  
8 rather than by use of an open-end credit card account shall not  
9 constitute a credit service charge as determined under Section 2-109  
10 of this title if the discount is offered to all prospective buyers  
11 clearly and conspicuously in accordance with regulations of the  
12 Administrator of Consumer Affairs. ~~No seller in any sales~~  
13 ~~transaction may impose a surcharge on a cardholder who elects an~~  
14 ~~open-end credit card or debit card account instead of paying by~~  
15 ~~cash, check or similar means.~~ There is no limit on the discount  
16 which may be offered by the seller. A seller who provides a  
17 discount otherwise than in accordance with the regulations of the  
18 Administrator must make the disclosures required by those  
19 regulations.

20       B. A seller who is registered with the United States Treasury  
21 Department as a money transmitter pursuant to 31 CFR, Section  
22 103.41, and who provides an electronic funds transmission service,  
23 including service by telephone and the Internet, may charge a  
24 different price for a funds transmission service based on the mode

1 of transmission used in the transaction without violating this  
2 section so long as the price charged for a service paid for with an  
3 open-end credit card or debit card account is not greater than the  
4 price charged for such service if paid for with currency or other  
5 similar means accepted within the same mode of transmission.

6 C. Any seller subject to the provisions of subsection B of this  
7 section shall either conduct business at a location in this state or  
8 comply with the provisions of Section 1022 of Title 18 of the  
9 Oklahoma Statutes.

10 D. As used in this section, "debit card" means any instrument  
11 or device, whether known as a debit card or by any other name,  
12 issued with or without fee by an issuer for the use of the  
13 cardholder in depositing, obtaining or transferring funds from a  
14 consumer banking electronic facility.

15 E. For purposes of this section, a private educational  
16 institution as defined in paragraph (e) of Section 3102 of Title 70  
17 of the Oklahoma Statutes, a private school defined as a nonpublic  
18 entity conducting an educational program for at least one grade  
19 between prekindergarten through twelve, a municipality as defined in  
20 paragraph 5 of Section 1-102 of Title 11 of the Oklahoma Statutes or  
21 a public trust with a municipality as its beneficiary may charge a  
22 service fee. The service fee shall be limited to bank processing  
23 fees and financial transaction fees, the cost of providing for  
24 secure transaction, portal fees, and fees necessary to compensate

1 for increased bandwidth incurred as a result of providing for an  
2 online transaction.

3 SECTION 4. This act shall become effective November 1, 2022.

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5 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND  
6 PENSIONS, dated 02/28/2022 - DO PASS, As Amended.

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